



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR
For the landlord: OPR-DR, OPRM-DR, FFL

Introduction

This hearing dealt with a cross application. The tenant's application pursuant to the Residential Tenancy Act (the Act) is for cancellation of the 10-Day Notice to End Tenancy for unpaid Rent or Utilities, pursuant to section 46 of the Act.

The landlord's application pursuant to the Act is for:

- an order of possession under a 10-Day Notice to End Tenancy for Unpaid Rent, pursuant to sections 46 and 55;
- a monetary order for unpaid rent, pursuant to section 26; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 9:44 A.M. to enable the tenant to call into this teleconference hearing scheduled for 9:30 A.M. The tenant did not attend the hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

At the outset of the hearing the landlord affirmed he understands it is prohibited to record this hearing.

Preliminary Issue – Tenant's application dismissed

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by the tenant, I order the tenant's application dismissed without leave to reapply.

Preliminary Issue – Landlord's application dismissed

The landlord affirmed he did not serve the notice of hearing to the tenant in any of the ways described in section 89 of the Act. The hearing cannot proceed fairly when the respondent has not been notified of the hearing.

Based on the foregoing, I dismiss the landlord's application for a monetary order and for an order of possession with leave to reapply. Leave to reapply is not an extension of timeline to apply.

The landlord must bear the cost of his filing fee, as the landlord was not successful.

Conclusion

I dismiss the tenant's application without leave to reapply.

I dismiss the landlord's application for a monetary order and for an order of possession with leave to reapply. I dismiss the landlord's application for an authorization to recover the filing fee for this application without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 05, 2021

Residential Tenancy Branch